

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

FILED

JAN 25 2018

Clerk, U.S. District Court
District Of Montana
Missoula

GREGORY LYNN WALLACE,

Petitioner,

vs.

STATE OF MONTANA,

Respondent.

CV 17-74-BU-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendations in this case on December 4, 2017, recommending that Plaintiff Gregory Lynn Wallace's ("Wilson") petition be dismissed as time-barred without excuse. Wallace timely filed an objection to the Findings and Recommendations, and so is entitled to a de novo review of those findings and recommendations to which he specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Notwithstanding the above, “[w]here a petitioner’s objections constitute perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original habeas petition, the applicable portions of the findings and recommendations will be reviewed for clear error.” *Rosling v. Kirkegard*, 2014 WL 693315 at *3 (D. Mont. Feb. 21, 2014) (citations omitted).

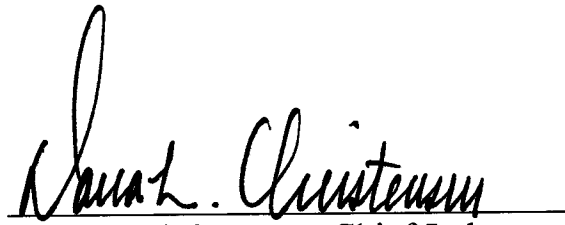
Having reviewed Wallace’s objection, the Court finds that he fails to articulate any specific issue with Judge Lynch’s reasoning, and instead reiterates his perception that his constitutional rights have been violated in some manner. Wallace has not demonstrated why his petition is untimely and why his failure to comply with the federal limitations period should be excused. Accordingly, the Court reviews Judge Lynch’s Findings and Recommendations for clear error and, finding none,

IT IS ORDERED that Judge Lynch’s Findings and Recommendations (Doc. 13) are ADOPTED IN FULL. Wallace’s petition for writ of habeas corpus (Doc. 1) is DISMISSED WITH PREJUDICE as time-barred without excuse.

IT IS FURTHER ORDERED that the Clerk of Court shall enter by separate document a judgment in favor of Respondent and against Petitioner.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 25th day of January, 2018.

A handwritten signature in black ink, reading "Dana L. Christensen", written over a horizontal line.

Dana L. Christensen, Chief Judge
United States District Court